IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.482 OF 2005

Shri Vassant Guno Gaudo. ..... Petitioner.

V/s.

Shri Jenardana Upendra Naique Counto since deceased represented by his legal representative and others. ..... Respondents.

Mr. M. Amonkar, Advocate for the petitioner.

Legal representative of respondent No.1 present in person.

Ms. K. Chodankar, Addl. Government Advocate for respondent 2 and 3.

CORAM : SMT. RANJANA DESAI, J.

DATE : 21ST JUNE, 2006.

P.C.

The petitioner has challenged in this writ petition Judgment and Order dated 26/7/2004 passed by the Administrative Tribunal, Goa in Land Revenue Appeal No.227/2000 whereby the Administrative Tribunal has dismissed the appeal filed by the petitioner against the Judgment and Order dated 30.7.1998 passed by the Deputy Collector and S.D.O., Ponda in case No.7/35/96-ILL-CONV.

2. A show cause notice under Section 33 of Goa Land

Revenue Code, 1968 dated 27.6.19967 came to be issued to the petitioner as the Mamlatdar of Ponda had reported that the petitioner had illegally converted land from agricultural to non-agricultural purpose by constructing a residential house in an area of 144 sq. metres in the property surveyed under No.161/1 of Village Priol belonging to respondent 1 herein. The Dy. Collector came to a conclusion that the petitioner had constructed a *pucca* structure on the land, in question, and the petitioner had started staying in the said structure and had also taken electricity. He concluded that the petitioner had changed the use of the land from agricultural to non-agricultural purpose. He, therefore, directed the petitioner to bring the land in question to its original use.

3. In the appeal carried to the Administrative Tribunal, the Administrative Tribunal confirmed these findings of the Dy. Collector. It appears from the Judgments of the Courts below that the petitioner is an agricultural tenant of portion of land bearing Survey No.161/1. The petitioner has admitted in his deposition that the hut standing on the land, in question, was being used for agricultural purpose. It was noticed that this hut was unauthorisedly converted into residential premises. That the petitioner has constructed a new structure can be ascertained from the fact that in the Survey Records Form I & XIV of Survey No.161/1, existence of such a hut was not recorded. Besides, the case of the petitioner is that after the death of his father

in 1988 with the permission of respondent 1 and the local Village Panchayat, he repaired the hut in the year 1993. He has produced NOC dated 3.1.93 issued by the Village Panchayat, house tax receipts and electricity bills. A finding of fact is recorded that these documents are in respect of Survey No.171/1 and not in respect of the construction done by the petitioner in Survey No.161/1. It is also found that the petitioner has not obtained any permission from the competent authority for conversion of land from agricultural to non-agricultural purpose while raising the construction in Survey No.161/1. Both the Courts below have held that this structure is being used for residential purpose. This concurrent finding of fact appears to me well-founded. There is no perversity warranting interference in writ petition. Hence, the petition is rejected.

At this stage, learned Counsel for the petitioner states that the order passed by me today be stayed. Prayer is rejected.

SMT. RANJANA DESAI, J.

ssm.